IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 10913 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

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PS PATEL, PRINCIPAL VIVEKANAND LAW COLLEGE

Versus

COMMISSIONER OF HIGHER EDUCATION OFFICE OF COMMI.

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Appearance:

1. Special Civil Application No. 10913 of 2003

MR DG SHUKLA for Petitioner No. 1

MR IM PANDYA, AGP for Respondent No. 1-2

NOTICE SERVED BY DS for Respondent No. 3

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CORAM : HON'BLE MR.JUSTICE P.B.MAJMUDAR

Date of decision: 30/09/2003

ORAL JUDGEMENT

Rule. Mr.Pandya, learned AGP waives service of rule on behalf respondents No.1 and 2.

2) By filing this petition, the petitioner has submitted that even though the petitioner was under Direct Payment Scheme, the respondents have not paid the salary to the petitioner since March, 2003.

3) In response to the notice of this Court, Mr.Pandya, learned AGP has appeared and stated that since the petitioner, who is the principal of the college, has sent wrong pay bills of two peons, who were not attending the services regularly and, therefore, according to the Government, they were not entitled to salary, yet the petitioner has send the salary bills of these peons.

4) Now, it is not in dispute that the said amount is already refunded by the management to the Government. In that view of the matter, there is now no reason not to sanction the salary of the petitioner. Under these circumstances, the respondents are directed to pay the salary of the petitioner forthwith and appropriate order may be passed in connection with the same within a period of two weeks from today. Since there is absolutely no reason for withholding the salary of the petitioner and since the management has already repaid the amount, which was claimed towards salary of two peons, there is no justification for withholding the salary of the petitioner. After payment of salary, if any inquiry is required to be held against the petitioner, it will be open for the Government to do the needful in this regard, in accordance with law.

5) Subject to what is stated above, this petition is disposed of in aforesaid terms. Rule is made absolute accordingly. Direct service is permitted.

(P.B.Majmudar,J.)
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